

7/20/77 [1]

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WITHDRAWAL SHEET (PRESIDENTIAL LIBRARIES)

| FORM OF DOCUMENT | CORRESPONDENTS OR TITLE | DATE | RESTRICTION |
|------------------|---|---------|-------------|
| memo w/att. | From Brzezinski to The President (6 pp.) re: letter to Prime Minister Callahan / enclosed in Hutcheson to Brzezinski 7/20/77 <i>opened per RAC, 1/31/13</i> | 7/19/77 | A |

FILE LOCATION

Carter Presidential Papers- Staff Offices, Office of the Staff Sec.- Pres.
Handwriting File 7/20/77 [1] BOX **31**

RESTRICTION CODES

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- (B) Closed by statute or by the agency which originated the document.
- (C) Closed in accordance with restrictions contained in the donor's deed of gift.

THE PRESIDENT'S SCHEDULE

. Wednesday - July 20, 1977

8:15 Dr. Zbigniew Brzezinski - The Oval Office.

8:45 Drop-By Secretary Harold Brown's Congressional
(15 min.) Briefing. (Mr. Frank Moore) - The State Dining
Room.

9:30 Mr. Jody Powell - The Oval Office.

10:00 Meeting with Prime Minister Menahem Begin.
(90 min.) (Dr. Zbigniew Brzezinski) - The Cabinet Room.

12:30 Lunch with Mrs. Rosalynn Carter - Oval Office.

1:30 Mr. Charles Schultze - The Oval Office.

2:45 Mr. Roy Wilkins. (Ms. Bunny Mitchell).
(10 min.) The Oval Office.

7:30 Drop-By Congressional Picnic - The South Lawn.

~~CONFIDENTIAL~~

THE WHITE HOUSE
WASHINGTON

July 20, 1977

Z. Brzezinski -

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

Re: Letter to James Callaghan on
ILO

cc: Landon Butler

DECLASSIFIED
Per, Rac Project
ESDN; NLC-126-8-22-18
BY KSS NARA DATE 1/30/17

THE WHITE HOUSE
WASHINGTON

original to 213

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| | FOR STAFFING |
| | FOR INFORMATION |
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| | LOG IN/TO PRESIDENT TODAY |
| | IMMEDIATE TURNAROUND |

| ACTION | FYI |
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| | LANCE |
| | SCHULTZE |

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| | ENROLLED BILL |
| | AGENCY REPORT |
| | CAB DECISION |
| | EXECUTIVE ORDER |
| | Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day |

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| | ARAGON |
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MEMORANDUM

~~CONFIDENTIAL~~ 8/20/77

4496

THE WHITE HOUSE

WASHINGTON

~~CONFIDENTIAL~~

ACTION

July 19, 1977

MEMORANDUM FOR:

THE PRESIDENT

FROM:

ZBIGNIEW BRZEZINSKI *ZB.*

SUBJECT:

Letter from James Callaghan

Prime Minister Callaghan has written to you (Tab B) expressing his hope that the U.S. will decide to remain in the ILO. A suggested response is at Tab A. *State has denied.*

RECOMMENDATION:

That you sign the letter to Prime Minister Callaghan.

*Zbig - withdrawal
is almost inevitable
J*

~~CONFIDENTIAL~~/GDS

~~CONFIDENTIAL~~

DECLASSIFIED

Per, Rac Project

ESDN: NLC-126-8-22-1-8

BY *KS* NARA DATE *1/30/12*

THE WHITE HOUSE
WASHINGTON

Dear Mr. Prime Minister:

I appreciate your special and personal interest in the ILO and the U.S. position. This is an issue that also greatly concerns me.

I share your view that the ILO has made substantial progress in several areas since 1975. Most heartening has been the ability of the industrialized free market countries to work closely together. Whatever our decision, we view this unity as a very significant achievement in our two year effort, and it will be fully reflected in our final assessment. I am particularly grateful for the solid support from Great Britain.

At the same time, as you point out, the June 1977 International Labor Conference was a real disappointment. We were not expecting victory across the board. We had hoped for concrete signs for continuing momentum on at least some of the issues. Except for your support, and that of other industrialized democracies, I think you will agree that we failed to continue this momentum.

We will thoroughly review all of the factors involved before making a decision. Our assessment will include the full two-year record of our effort to reform the ILO, the views of our friends, the value of the work of this organization, and the effect of our decision on other international organizations.

We certainly will consult with you prior to any public announcement of a U.S. decision. Whatever the final outcome, we look forward to working closely with our British friends on international labor issues.

With warm wishes,

Sincerely,

Jimmy Carter

The Right Honorable
James Callaghan
Prime Minister
London



~~CONFIDENTIAL~~

TEXT OF MESSAGE

DECLASSIFIED
Per, Rac Project
ESDN: NLC-126-8-22-4-8
BY: KS NARA DATE 11/3-13

"Dear Jimmy

I have been disturbed, as I am sure you have been, at the outcome of the 63rd session of the International Labour Conference. I know that it will loom large in your consideration of continued American membership of the Organisation.

May I say that in my view the ILO, whatever its faults, remains, with its tripartite structure, a unique and powerful instrument of social reform. Through its investigatory powers, it can bring to account those governments which transgress human and trade union rights. It provided practical assistance to developing countries in improving living standards for working people. Its technical work in setting labour standards is of great importance. Two important new conventions were completed at the recent conference.

Part of the unique quality of the ILO lies in its universality. Without the United States it is difficult to see how its work could continue effectively: the organisation would be missing an essential part of the world community and the Western powers would lose their most powerful partner.

I recognise that the conference itself was very disappointing. Nonetheless, there have been some signs of progress over the last two years. The Organisation

/ has



~~CONFIDENTIAL~~

has completed a considerable amount of useful technical work during that time. The Governing Body earlier this year made progress on the American suggestion for changes in Article 17 of the Standing Orders to cut down on condemnatory and irrelevant political resolutions. At the conference itself there were less political resolutions than before and indeed the work of the Resolutions Committee was satisfactory.

Although the report of the Committee on the Application of Conventions and Recommendations was not adopted, it remains on the record and contains some valuable material and is more evenly balanced than many of its predecessors.

I would have been much happier if some of the other objectives of the West had been achieved in full. I should like to have seen the procedure for presenting resolutions amended: the 1974 Israeli resolution buried completely: and some diminution in political irrelevancies. But it would perhaps have been unrealistic to expect total success in one conference. Progress has been hindered by the use of procedural devices, but is still possible in 1978 and succeeding years on the issues of concern to the United States and like-minded nations.

We hope the US took comfort from the strong and unwavering support that was forthcoming from the Nine and other industrialised market economy countries.

I personally hope very much that you will be able to give due weight to those positive features which have emerged in ILO affairs over the past two years, and decide to

/ remain



~~CONFIDENTIAL~~

remain with us in this important international organisation.

With best wishes.

Yours sincerely,

Jim Callaghan"

~~CONFIDENTIAL~~

THE WHITE HOUSE
WASHINGTON

July 20, 1977

Jack Watson

The attached was returned in the President's outbox today and is forwarded to you for your information and appropriate handling.

Rick Hutcheson

RE: CRISIS MANAGEMENT

cc: The Vice President
Stu Eizenstat
Hamilton Jordan
Jody Powell
Bert Lance
Susan Clough
Greg Schneiders

THE WHITE HOUSE
WASHINGTON

Jack:

When a crisis occurs:

- a) You convene a group immediately as Chairman, to include OMB, Ham, Stu, Jody, Greg
- b) Consult with major agencies directly involved;
- c) Give me one page summary of crisis, recommending a person to be publicly designated as my own representative on the scene. (probably Greg). You be contact in White House.
- d) Evolve for me description of proper relationship with

THE WHITE HOUSE
WASHINGTON

agency people on the
scene.

c) You & Greg set all
this down briefly & in
writing, route to others,
then to me.

J. C.

cc Hamm Tody
Bert Greg
Sta

Electrostatic Copy Made
for Preservation Purposes

THE WHITE HOUSE
WASHINGTON

*includes copy
of my note*

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| | FOR STAFFING |
| | FOR INFORMATION |
| X | FROM PRESIDENT'S OUTBOX |
| | LOG IN/TO PRESIDENT TODAY |
| | IMMEDIATE TURNAROUND |

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| / | SCHNEIDERS |
| | STRAUSS |
| | VOORDE |
| | WARREN |

THE WHITE HOUSE
WASHINGTON

rick--please send me
back a copy of the
president's note to
jack watson

thanks -- susan clough

THE WHITE HOUSE
WASHINGTON

Mr. President:

Hugh Carter concurs with Jack. Stu and Hamilton have no comment. Greg's comment is attached.

Midge says that since her office is frequently among the first to be notified of potential disaster situations, she should be included on the committee suggested by Jack, as should Greg and Hamilton.

OMB comments that "in recent years, OMB has had the Executive Office responsibility for crisis management coordination and has been called on numerous occasions to deal with emergency situations." OMB has assisted in organizing the FEC, the FEA, Clemency Board, Vietnam Resettlement Program, etc. OMB coordinated responses to such disaster situations as Hurricane Agnes, Rapid City floods, Florida crop freezes etc. Thus, from both management and budgeting points of view, OMB should be represented on any crisis management committee.

OMB also observes that, regarding FRCs, the President did not approve the restructuring, and instead directed that the FRCs be studied as a part of reorganization.

---Rick

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

July 13, 1977

MEMORANDUM FOR: THE PRESIDENT
FROM: Jack Watson
SUBJECT: CRISIS MANAGEMENT

This is in response to your note asking that I suggest an on-going structure and process for crisis management.

There are essentially two roles that need to be performed when a crisis arises which requires Presidential attention. The first is a managerial role performed by someone close to the President which consists of the following elements:

- Assessment of the situation and determination of needs;
- Formulation of recommendations regarding specific actions to be taken;
- Implementation of your instructions through coordination of inter-agency response, wherever possible, designating a lead agency to assume operational control under overall White House supervision.

The second role is that of emissary. In times of crisis, it is sometimes necessary and desirable to send a Presidential emissary to the area, not only to assist in assessing the situation but to demonstrate Presidential concern. Although the overall crisis manager will, of course, sometimes be the best person to send, there will be other occasions when other people might be used to fill that role, e.g., Chip, Midge, Ham, Stu, etc. Needless to say, if someone other than the person with overall responsibility for crisis management is sent as your emissary, that person must work very closely with the manager.

As you know, during the floods in West Virginia, we sent Walter Kallaur as both an emissary and coordinator into West Virginia to determine what we could do to respond to the situation more promptly and effectively. In the Buffalo snow crisis, Midge and Chip were sent to Buffalo, primarily to demonstrate your personal concern for the situation.

See
note
J

In a situation that was not necessary to bother you with, I was called by Harvey Sloan, Mayor of Louisville, Kentucky, and asked for help in coordinating federal assistance regarding a major toxic spill in the Louisville sewerage system. Several federal agencies were required to deal with the situation, and Harvey was having a difficult time getting a coordinated response from them.

After discussing the matter with Doug Costle and Barbara Blum, I asked the Regional Director of EPA, who was also serving as Chairman of the Federal Regional Council in Region IV, to fly to Louisville, assess the situation and report back to me. He did so and then, at my request, remained in Louisville to coordinate the federal follow-through as your on-site manager. Since all of the other agencies understood that he was fulfilling that responsibility as your representative, the situation worked very well, the crisis was resolved, and Harvey Sloan was pleased with the outcome. In that situation, it was not necessary to dispatch someone from the White House to Louisville.

RECOMMENDATIONS.

- (1) That you designate the Secretary to the Cabinet/Assistant to the President for Intergovernmental Affairs as the White House staff person with overall responsibility for domestic crisis management. Since the person in that job and his/her staff have ongoing, regular working relationships both with members of the Cabinet and with state and local officials, it makes sense to assign responsibility to that office for working with those same people in a crisis situation.
- (2) In many, if not most, cases, it will be necessary for Bob Lipshutz, or someone designated by Bob from his office, plus Hugh Carter, to work on the crisis management committee. Other members of the White House staff would be added to the committee as the situation required. Rather than designate a large crisis management committee, I recommend that the standing committee consist, at the present time, of:
 - Jack Watson
 - Bob Lipshutz, and
 - Hugh Carter
- (3) That, if it is acceptable to him, Greg Schneiders be added to my staff to serve, among other things, as the crisis coordinator. In effect, Greg would be fully integrated into the Cabinet Secretary/IGR team and would also fill the gap created by Walter Kallaur's departure.

- (4) That, if you approve the recommendations regarding restructuring of the Federal Regional Councils, we use the fulltime regional coordinators, as appropriate, as crisis managers in their respective regions. This would eliminate the need for even an ad hoc staff build-up in the White House in a crisis situation and be perfectly consistent with the mission given to those people in the field. Since, under our proposal, the ten regional coordinators would regularly report to the Under-Secretaries Group, co-chaired by Jim McIntyre and me, my staff and I will know and have an ongoing working relationship with all of them.
- (5) That we use the lead agency concept for crisis management to the fullest extent possible, thereby placing primary responsibility for day to day operational management of a crisis outside the White House. That is generally the process we followed in the various disaster situations, and it worked quite well. Based on our experience so far, it is clear that the chief responsibility of the crisis manager in the White House should be to expedite and coordinate a rapid and comprehensive assessment of the problem and to structure the appropriate interagency mechanisms to deal with it. Once clear responsibilities are assigned to the participating agencies, and lead responsibility is delegated to one of the agencies, the White House role diminishes, as it should.

If this approach is generally acceptable to you, we should begin to survey the various departmental and agency "disaster/crisis" response mechanisms (e.g., for epidemics, civil disorders, natural disasters, power blackouts, etc.) and begin to develop a series of contacts and standard operating procedures.

THE WHITE HOUSE

WASHINGTON

July 15, 1977

MEMORANDUM FOR: The President
FROM: Greg Schneiders *Gay*
SUBJECT: Crisis Management

As I understand our conversation on crisis management you would like me to function as:

- a) a personal representative of the President in crisis or emergency situations; and
- b) a coordinator and expediter of the federal effort in such circumstances.

I have long felt that there was a need for such a function in the White House and I am anxious to fill it.

I believe it is critically important that your representative in these matters have an independent status and a direct relationship with you while, of course, closely coordinating his efforts with Jack Watson's and other appropriate offices.

Att: J. Edgar Hoover

THE WHITE HOUSE
WASHINGTON

Date: July 14, 1977

MEMORANDUM

FOR ACTION:

Midge Costanza - attached
Stu Eizenstat - *he*
Hamilton Jordan - *he*
Bob Lipshutz
Frank Moore
Jody Powell

Bert Lance - attached
~~Jack Watson~~
Hugh Carter *lower*

FOR INFORMATION:

The Vice President
Greg Schneiders - *attached*

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Watson's memo dated 7/13/77 re Crisis Management

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 12:00

DAY: Saturday

DATE: July 16, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary's Office (7-1111) or (7-1112).

THE WHITE HOUSE
WASHINGTON

| ACTION | FYI |
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| / | MONDALE |
| / | COSTANZA |
| / | EIZENSTAT |
| / | JORDAN |
| / | LIPSHUTZ |
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| / | POWELL |
| / | WATSON |

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| | SCHULTZE |
| | SIEGEL |
| | SMITH |
| | STRAUSS |
| | WELLS |
| | VOORDE |

Date: July 14, 1977

MEMORANDUM

FOR ACTION:

Midge Costanza
Stu Eizenstat
 Hamilton Jordan
 Bob Lipshutz Bert Lance
 Frank Moore ~~J. H. H. H.~~
 Jody Powell Hugh Carter

FOR INFORMATION:

The Vice President
 Greg Schneiders

XL Corp
 Rubenstein
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Please note other comments below:

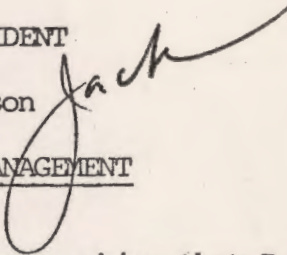
✓ No comment.
 Stue.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE
WASHINGTON

July 13, 1977

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Date: July 14, 1977

MEMORANDUM

FOR ACTION:

Midge Costanza
Stu Eizenstat
Hamilton Jordan
Bob Lipshutz Bert Lance
Frank Moore ~~Richard Nixon~~
Jody Powell Hugh Carter

FOR INFORMATION:

The Vice President
Greg Schneiders

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Watson's memo dated 7/13/77 re Crisis Management

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 12:00

DAY: Saturday

DATE: July 16, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.☐ No comment.

Please note other comments below:

*This ~~to~~ function ~~separately~~
needs to be performed. Reg would
be more than competent if he is willing
to do it. JH*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

July 15, 1977

TO: STAFF SECRETARY
FM: MIDGE COSTANZA *mc*
RE: Crisis Management Memo

I feel the concept of a standing management committee in the White House is good and look forward to continuing my role as the President's emissary when needed.

I do feel, however, that since my office is frequently among the first to be notified of a potential disaster situation, it might make sense to include me on the committee. My office is perceived by the public as the sympathetic eyes and ears of the President and groups and communities in distress quite often turn to the Office of Public Liaison. This was true in the case of the New York City blackout, the situation in Kent State, the flooding in West Virginia and the freeze in Buffalo. I believe that reporting mechanisms would be streamlined were I a part of the proposed committee.

Since many of the crises also have political implications, I believe Hamilton Jordan should be added to the Committee.

Greg Schneiders should be added as a Committee member regardless of the outcome of your decision under Recommendation No. 3.

Date: July 14, 1977

MEMORANDUM

FOR ACTION:

Midge Costanza
Stu Eizenstat
Hamilton Jordan
Bob Lipshutz Bert Lance
Frank Moore ~~James~~
Jody Powell Hugh Carter

FOR INFORMATION:

The Vice President
Greg Schneiders

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Watson's memo dated 7/13/77 re Crisis Management

JUL 17 3 08 AM '77
OFFICE OF
MANAGEMENT & BUDGET

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Other:

STAFF RESPONSE:

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☐ No comment.

Please note other comments below:

Wellford

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WASHINGTON

Date: July 14, 1977

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Midge Costanza
Stu Eizenstat
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Frank Moore ~~J. Edgar Hoover~~
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Other:

STAFF RESPONSE:

☒ I concur. *MAC*☐ No comment.*Please note other comments below:***PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.**

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

Date: July 14, 1977

MEMORANDUM

7/14
5-30
air

FOR ACTION:

Midge Costanza
Stu Eizenstat
Hamilton Jordan
Bob Lipshutz Bert Lance
Frank Moore ~~Jack Watson~~
Jody Powell Hugh Carter

FOR INFORMATION:

The Vice President
Greg Schneiders

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Watson's memo dated 7/13/77 re Crisis Management

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 12:00

DAY: Saturday

DATE: July 16, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

Date: July 14, 1977

MEMORANDUM

FOR ACTION:

Midge Costanza
Stu Eizenstat
Hamilton Jordan
Bob Lipshutz Bert Lance
Frank Moore ~~John~~
Jody Powell Hugh Carter

FOR INFORMATION:

The Vice President
Greg Schneiders

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Watson's memo dated 7/13/77 re Crisis Management

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 12:00

DAY: Saturday

DATE: July 16, 1977

ACTION REQUESTED:

☒ Your comments
Other:

STAFF RESPONSE:

☐ I concur.
Please note other comments below:

☒ No comment.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

Jack:

comments are:

1977 JUL 18 PM 3 30

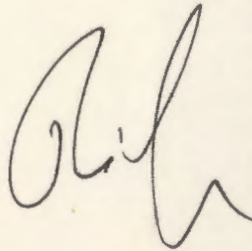
Greg: feels that the President needs a personal representative in crisis or emergency situations; and an expeditor of the federal effort in such situations. He feels that the President's representative should have an independent status, and a direct relationship with the President, while coordinating with the IGR and other appropriate offices

Midge: since her office is frequently among the first to be notified of a potential disaster situation, feels she should also be on the committee described in the memo, as should Greg and Hamilton

OMB: as OMB has frequently had executive office responsibility for crisis management coordination, and from both budgeting and management points of view, OMB should be represented on any crisis management committee. Regarding FRCs, OMB observes that the President did not approve the restructuring, and instead directed that FRCs be studied for a year as a part of reorganization

Hugh Carter concurred with the memo

Hamilton and Stu had no comment

A handwritten signature in dark ink, appearing to be 'A. H.' or similar, written in a cursive style.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MEMORANDUM FOR RICK HUTCHESON

FROM: Harrison Wellford HW

SUBJECT: Jack Watson's July 13 Memorandum to the
President on Crisis Management

We have reviewed the above memorandum. The following might be considered in preparing an analysis of the memorandum for the President.

Ongoing OMB activities in crisis management coordination.
In recent years, OMB has had the Executive Office responsibility for crisis management coordination and has been called on numerous occasions to deal with emergency situations, with apparent beneficial effects in many instances.

For example, OMB has assisted in organizational activities such as establishment of field offices during Phase 1 of the wage-price freeze, establishment of the Cost of Living Council, Pay Board and Price Commission, establishment of the Federal Energy Administration in Washington and the field, organization of the Clemency Board, organization and staffing of the Federal Election Commission, and organization and staffing of the Vietnam Resettlement Program.

In disaster situations, OMB has provided leadership or coordination in crises such as the Hayden, Kentucky mine explosion, Hurricane Agnes, Buffalo Creek and Rapid City floods, Florida and California crop freezes and migrant worker unemployment, and amelioration of the Teton Dam disaster.

It is particularly important to note that both the management and budget sides of OMB have been involved in many of these efforts to ensure that budgetary and other program policies are kept in mind in structuring crisis responses.

Therefore, it seems appropriate for OMB to continue to play a role in crisis management and that it be represented on any "crisis management committee" which is set up.

Utilization of revamped Federal Regional Councils. Jack Watson's memo mentions his recommendations for revamped Federal Regional Councils and utilization of fulltime Presidential regional coordinators. Our understanding is that the President did not approve the restructuring of the Regional Councils, deciding instead that the functioning of the Councils and Federal field activities generally should be studied for approximately one year as part of the reorganization effort, with a recommendation back to the President on how to improve the structure.

The role of the Councils in crisis management should be part of the general consideration of their role.

THE PRESIDENT AND VICE PRESIDENT

8:45 AM

THE WHITE HOUSE
WASHINGTON

①

July 19, 1977

MEETING WITH SECRETARY BROWN, CONGRESSIONAL LEADERSHIP,
AND KEY FOREIGN ADVISORY COMMITTEE MEMBERS

Wednesday, July 20, 1977

8:45 a.m. (15 minutes)

The State Dining Room

From: Frank Moore *J.M.*

I. PURPOSE

Deliver introductory comments prior to Congressional briefing by Secretary Brown on his upcoming trip to Korea. Secretary Vance will also be in attendance.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

- A. Background: Secretary of Defense Harold Brown, General George Brown, Ambassador Sneider and other top State Department representatives leave Friday for the tenth annual Security Consultative Meeting between the U.S. Secretary of Defense and Korean officials. The meeting will be held July 25-26 in Seoul. The Administration's planned phased withdrawal of ground troops from Korea is providing the major point for the U.S. and Koreans to discuss the modification of our presence in Korea as it is presently envisioned by the Administration. Korean participants in the program will be President Park, Minister of National Defense Suh and Prime Minister Choi.

This meeting will provide the first detailed explanation to Congress of: (1) the political and military rationale for the troop withdrawal plan; (2) the specific package of military equipment and security assistance considered necessary to compensate the South Koreans for withdrawing the firepower of the 2nd Division, and; (3) the agenda and purpose of the 25-26 meeting.

- B. Participants: The President; Secretary of Defense, Dr. Harold Brown; Secretary of State, Cyrus Vance; Congressional Foreign Advisory Committee members; Frank Moore and Bill Cable. (See attached list for complete list of all participants.)
- C. Press Plan: White House Photographer.

X *part 1/2*

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III. TALKING POINTS

1. Stress importance and sensitivity of the issue.
2. Recognize the important role Congress will play in supporting the overall policy and in approving legislation to authorize military equipment transfers and security assistance that will be necessary to compensate for withdrawal of U.S. ground forces.
3. Details of the proposal will then be explained by Secretary Brown.

July 19, 1977

PARTICIPANTS FOR SECRETARY BROWN'S BRIEFING ON HIS
UPCOMING TRIP TO KOREA.

Wednesday, July 20, 1977

8:45 a.m. (15 minutes)

The State Dining Room

The President

Dr. Harold Brown
Secretary of Defense
Mr. David McGiffert
Assistant Secretary
International Security Affairs
Mr. Morton Abramowitz
Deputy Assistant Secretary
East Asia & Pacific Affairs
Mr. Jack Stempler
Assistant to the Secretary
Legislative Affairs
Lt. Gen. Maurice Casey
Director, Special Task Force on Korea
Miss Iris Portny
Assistant to Mr. Stempler

Mr. Cyrus Vance
Secretary of State
Mr. Philip Habib
Under Secretary
Political Affairs
Mr. Richard Holbrooke
Assistant Secretary
East Asia & Pacific Affairs

Congressional Members

House

Rep. Tip O'Neill
Speaker of the House
Rep. Jim Wright
Majority Leader of the House
Rep. John Rhodes
Minority Leader of the House

Senate

Sen. Robert Byrd
Majority Leader
Sen. Alan Cranston
Majority Whip
Sen. Howard Baker
Minority Leader

International Relations Committee

Rep. Clement Zablocki
Chairman-Full Committee
Rep. William Broomfield
Ranking Minority-Full Committee
Int'l. Security Subcommittee
Rep. Lester Wolff
Chairman-Subcommittee on
Asian & Pacific Affairs
Rep. J. Herbert Burke
Ranking Minority-Subcommittee on
Asian & Pacific Affairs
Rep. John Buchanan
Ranking Minority-Subcommittee on
International Operations
Rep. Donald Fraser
Chairman-Subcommittee on
International Organizations

Foreign Relations Committee

Sen. John Sparkman
Chairman-Full Committee
Sen. Clifford Case
Ranking Minority-Full Com.
Foreign Assistance Subcom.
Sen. John Glenn
Chairman-Subcommittee on
Asian & Pacific Affairs
Sen. James Pearson
Ranking Minority-Subcom.
on Asian & Pacific Aff.
Sen. Hubert Humphrey
Chairman-Subcommittee on
Foreign Assistance
Sen. George McGovern
Chairman-Subcommittee on
International Operations

Rep. Edward Derwinski
Ranking Minority-Subcommittee on
International Organizations

Armed Services Committee

Rep. Melvin Price
Chairman-Full Committee
Rep. Bob Wilson
Ranking Minority-Full Com.
Rep. Samuel Stratton
Chairman-Subcommittee on
Investigations
Rep. Charles Wilson (Calif)

Appropriations Committee

Rep. George Mahon
Chairman-Full Committee
Rep. Elford Cederberg
Ranking Minority-Full Committee
Rep. Jack Edwards
Ranking Minority-Subcommittee on
Defense
Rep. Clarence Long
Chairman-Subcommittee on
Foreign Operations
Rep. Bill Young
Ranking Minority-Subcommittee
on Foreign Operations

Sen. Charles Percy
Ranking Minority-Subcommittee
on Int'l. Operations

Armed Services Committee

Sen. John Stennis
Chairman-Full Committee
Sen. John Tower
Ranking Minority-Full Com.
Sen. Sam Nunn
Chairman-Subcommittee on
Manpower & Personnel

Appropriations Committee

Sen. John McClellan
Chairman-Full Committee
Sen. Milton Young
Ranking Minority-Full Com.
Sen. Daniel Inouye
Chairman-Subcommittee on
Foreign Operations
Sen. Richard Schweiker
Ranking Minority-Subcommittee
on Foreign Operations

THE WHITE HOUSE
WASHINGTON

July 20, 1977

Stu Eizenstat
Jody Powell

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: SIX MONTH ANNIVERSARY

THE WHITE HOUSE
WASHINGTON

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| | ENROLLED BILL |
| | AGENCY REPORT |
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| | EXECUTIVE ORDER |
| | Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day |

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| | SCHNEIDERS |
| | STRAUSS |
| | VOORDE |
| | WARREN |

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

July 19, 1977

*Stu -
ok - returned
J*

ps: 9/5 "perquisite"

MEMORANDUM FOR:

THE PRESIDENT

FROM:

STU EIZENSTAT

Stu

SUBJECT:

First Six Months

Tomorrow marks the end of the Administration's first six months. I thought you might be interested in the attached summary that I have prepared listing the Administration's major actions to date.

If you approve, Jody's office will distribute copies to the national press and to local editors.

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

July 20, 1977

Stu Eizenstat

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: MOYNIHAN'S STATEMENT ON THE
FEDERAL GOVERNMENT AND THE
ECONOMY OF NEW YORK STATE

THE WHITE HOUSE
WASHINGTON

*Stu. Have agreed
as we. promised
J*

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

original of sealed letter 4-90

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United States Senate

THE FEDERAL GOVERNMENT

AND

THE ECONOMY OF NEW YORK STATE

A Statement by Senator Daniel Patrick Moynihan

Revised Edition

July 15, 1977

THE WHITE HOUSE
WASHINGTON

July 20, 1977

Stu Eizenstat -

The attached was returned in the President's
outbox today and is forwarded to you for
appropriate handling.

Rick Hutcheson

cc: The Vice President
Midge Costanza
Hamilton Jordan
Bob Lipshutz
Frank Moore
Jody Powell
Jack Watson
Bert Lance

RE: BELL MEMO ON BIDEN-ROTH BUSING BILL

THE WHITE HOUSE
WASHINGTON

copy sent 2:22 PM 11/11/70

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THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

July 19, 1977

@

MEMORANDUM FOR: THE PRESIDENT
FROM: STU EIZENSTAT *Stu*
SUBJECT: Bell Memo on Biden-Roth
Busing Bill

Background

You will recall that during your June 14 meeting with Senator Biden on his school busing legislation you said that you would ask Attorney General Bell for an assessment of the wisdom and constitutionality of this legislation, and that you would inform Biden of your position on the bill after receiving Judge Bell's comments.

The full Judiciary Committee will vote on this bill tomorrow,
and members have called requesting our position on this legislation.

Discussion

The intent of the Biden bill is to limit the power of federal courts to order widespread busing to desegregate school systems. Basic provisions of the bill are:

- 1) No busing unless a court finds "discriminatory purpose in education" to have been the motivating factor creating the segregation;
- 2) In each case a specific showing must be made of the effect of discrimination on the composition of the schools and the scope of the court order must be tailored to remedy only these adverse effects;
- 3) Busing orders could be stayed pending appeals on all aspects of the case;
- 4) The findings mandated by this bill would apply to existing school cases which have not received a final decision from the court.

The Justice Department feels that the latter two provisions of the bill are probably unconstitutional. As to the first two, Justice believes them to be unnecessary in view of recent Supreme Court decisions which achieve substantially the goals sought by this bill.

These decisions require in school cases a showing of discriminatory purpose and a determination of incremental segregative effect on the racial distribution of a school population before a remedy is ordered.

Justice concludes that the attempt to codify these decisions and to impose additional ambiguously phrased restrictions on the federal courts is likely to lead to more confusion and uncertainty in the school desegregation process and, therefore, should not be supported by this Administration.

I concur with the Attorney General's recommendation that the Administration should oppose this bill because it is simply unnecessary in light of recent Supreme Court decisions.

I recommend that the Attorney General (or myself) communicate the Administration position to Senator Biden, unless you have a prior commitment to speak with him personally.

Jack Watson and Bob Lipshutz concur.

Decision on the Legislation

- ☒ _____ Oppose Biden bill as unnecessary
- ☐ _____ Support those aspects of the bill that are arguably constitutional
- ☐ _____ Take no position

Decision on Communicating the Administration Position

- ☐ _____ President to call Biden
- ☒ _____ Attorney General to inform Biden ^{if not} (in London)
- ☒ _____ Eizenstat to inform Biden



Office of the Attorney General
Washington, D. C. 20530

July 13, 1977

MEMORANDUM FOR THE PRESIDENT

Re: Biden-Roth bill on busing

This is in response to your request for my views on the wisdom and constitutionality of the Biden-Roth bill (S. 1651) designed to limit use of busing as a remedy for school segregation.

Attached is a memorandum of the Office of Legal Counsel. I concur with the view of that Office and of the Civil Rights Division that enactment of this bill would not be desirable. The bill's main provisions, such as the requirement that busing be used only when discriminatory purpose has been shown, would be constitutional but unnecessary. Similar requirements are set forth in the recent decisions of the Supreme Court in cases from Dayton, Detroit, Omaha, and Milwaukee. Other provisions of the bill could create serious practical problems, and some provisions, such as the blanket requirement of stay pending appeal, would be unconstitutional in certain circumstances.

The recent decisions of the Supreme Court should reduce the chances that excessive busing will be required by the Federal courts. The best hope for satisfactory resolution of the general issue of busing is reasonable implementation of the Supreme Court decisions, not legislation such as S. 1651.

Passage of the Biden-Roth bill will almost surely result in another round of litigation through the Federal courts by parties challenging some provisions on constitutional grounds and seeking judicial construction and interpretation of the bill's other opaque provisions. Those

provisions which are constitutionally tolerable are simply unnecessary in light of the Supreme Court's recent pronouncements. With confusion and uncertainty the only reasonably likely products of this legislation, Congress' effort can only contribute to forestalling -- without apparent countervailing benefits -- the end to the desegregation process. I recommend that the Administration oppose this bill.

Griffin B. Bell

Griffin B. Bell
Attorney General

P.S. the Supreme Court decision in the Dayton, Ohio case was handed after Sen. Biden came up with this bill. That decision gives him almost everything that the bill would bring about.

G B B

Department of Justice
Washington, D.C. 20530

JUL 11 1977

MEMORANDUM FOR THE ATTORNEY GENERAL

Re: Constitutionality of the Biden-Roth
bill (S. 1651)

In accord with your request of June 15, 1977, we have examined the bill concerning busing which was recently introduced by Senators Biden and Roth. On June 14, President Carter discussed the bill with Senator Biden and said that he would ask for your informal views on the wisdom and constitutionality of the bill. The Civil Rights Division has examined the bill's policy ramifications and has concluded that its enactment would not be helpful to school boards or the courts. (A copy of Jim Turner's memorandum of June 30 is attached.) Our office dealt with the question of constitutionality. Our conclusion is that, with the exception of the sections requiring that busing orders be stayed pending appeal or pending further proceedings in the district court, the provisions of the bill would be constitutional, or at least could be interpreted so as to avoid problems of unconstitutionality. We agree, however, with the Civil Rights Division that enactment of the bill is neither necessary nor desirable.

Before turning to the specific provisions of the bill, we will discuss its constitutional bases.

A. Constitutional bases of the bill - general

The title of S. 1651 states that it is: "To insure equal protection of the laws as guaranteed by the fifth or fourteenth amendments to the Constitution of the United States." The same bases are indicated by the bill's provisions and by statements made by its sponsors. See 123



Cong. Rec. S 9227-9229 (daily ed., June 9, 1977) (Senators Roth and Biden).

Section 5 of the Fourteenth Amendment empowers Congress "to enforce, by appropriate legislation, the provisions of . . . [the amendment]," including the Equal Protection Clause. Regarding the determination whether a particular statute is "appropriate," the courts apply the McCulloch v. Maryland standard and ordinarily give deference to Congress' judgment. Katzenbach v. Morgan, 384 U.S. 641, 650 (1966). The same standard applies to legislation, based on the Necessary and Proper Clause, enforcing the equal protection concepts contained in the Due Process Clause of the Fifth Amendment. 1/

To the extent that the present bill is consistent with desegregation decisions of the Supreme Court, it would clearly be valid. The question of constitutionality would arise if, because of the bill's limits on use of the busing remedy, it seems to require a result different from that which would be reached under the Supreme Court's decisions. See Katzenbach v. Morgan, supra, 384 U.S. at 651, footnote 10. As we will point out below, some such problems might be avoided through construction of the legislation.

B. Constitutionality of the bill's provisions

Section 1 - discriminatory purpose. This section provides that:

. . . no court of the United States shall order directly or indirectly the transportation of any student on the basis of race,

1/ The reference to the Fifth Amendment may have been included because of application of the bill to the District of Columbia. The bill applies to any "court of the United States." Neither that term nor any other term is defined in the bill.

color, or national origin unless the court determines that a discriminatory purpose in education was a principal motivating factor in the constitutional violation for which such transportation is proposed as a remedy.

The meaning of this provision is not entirely clear. Apparently, the bill's sponsors intended to apply to school desegregation cases the rule requiring a finding of discriminatory purpose or intent -- a rule enunciated by the Supreme Court in such cases as Washington v. Davis, 426 U.S. 229 (1976), and Village of Arlington Heights v. Metropolitan Housing Development Corp., 429 U.S. 252 (1977). See 123 Cong. Rec. S 9228 (daily ed., June 9, 1977) (Senator Biden).

Subsequent to introduction of the bill, the Supreme Court issued its decision in Dayton Board of Education v. Brinkman, 45 L.W. (1977). That decision makes clear that, before a court may find a violation of the Constitution in regard to operation of a school system, it must find discriminatory purpose on the part of school officials. (Slip op. p. 13.) Thus, as a general matter, § 1 of the bill merely follows the decisions of the Court.

One issue is the significance of the phrase "a principal motivating factor." In Arlington Heights, the Court stated that the plaintiffs' burden was to show that "discriminatory purpose was a motivating factor . . .," 429 U.S. at , and the Court noted that it can rarely be shown "that a particular purpose [of a legislative or administrative body] was the 'dominant' or 'primary' one," 429 U.S. at . The Court concluded that no such finding was required, and stated that it would be enough if a discriminatory intent was only shown to be a "subordinate" purpose. 429 U.S. at n. . The language of § 1 is awkward, but it can be interpreted in a manner consistent with the Court's decisions. Indeed, the sponsors intended it to be interpreted in that way. ^{2/} In other words, a plaintiff

^{2/} (Footnote on p. 4)

could meet his burden by showing that racial discrimination was a substantial factor, even though there were other "principal" factors. 3/

It appears that § 1, by referring to "discriminatory purpose in education," is intended to preclude use of busing to redress discrimination in areas other than education, e.g., discrimination in public housing. In our view, Congress has the power to impose this limitation. However, the issue has not been decided by the Supreme Court. In Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1, 23 (1971), the Court expressly left open the question whether a school desegregation decree could properly remedy segregation resulting from State action other than discriminatory action by school authorities. In Austin Independent School District v. United States, 45 L.W. 3413 (1976), three Justices expressed the view

2/ (Footnote from p. 3)

The key sponsors clearly stated in the debates on the legislation that they were endeavoring to apply the principles of recent Supreme Court cases to the area of school desegregation. It should be noted, however, that in discussing Washington v. Davis and Arlington Heights, Senator Biden described the rule in those cases in an inaccurate way. He said that the Court "requires . . . a finding that 'a discriminatory purpose was the principal motivating factor in the constitutional violation for which the remedy is proposed.'" 123 Cong. Rec. S 9228 (daily ed., Jan. 9, 1977). As indicated above, the Court has not required a showing of "the principal" motive.

3/ The Civil Rights Division memorandum states (p. 5) that inclusion of the term "principal" substantially alters existing law. We read the bill somewhat differently. At least, as noted above, we consider the phrase "a principal motivating factor" to be ambiguous enough that it could be interpreted so as to avoid any constitutional problem.

that ". . . discrimination in housing -- whether public or private -- cannot be attributed to school authorities." Of course, a different issue would be presented if collusion between school and housing authorities, resulting in segregation in schools, could be shown. In almost all cases, however, it will not be possible to conclude that the discriminatory acts of school officials (in such areas as site selection, school construction, boundary establishment and changes, portable placement, school closings, etc.) have not had an effect upon patterns of residential segregation. The Supreme Court in Keyes plainly recognized this phenomenon when it found that acts of school officials could have a "profound reciprocal effect on the racial composition of residential neighborhoods" Keyes v. School Dist. N. 1, 413 U.S. at 202. So long as the bill is read as not foreclosing Federal courts from remedying such effects of discriminatory conduct, the bill would appear to be constitutional.

Section 2 - Three-judge court. This section provides that:

. . . any court order requiring directly or indirectly the transportation of any student on the basis of race, color, or national origin shall be heard and determined by a district court of three judges.

This provision does not raise any question of constitutionality. However, we agree with the Civil Rights Division that it should be opposed on policy grounds.

Section 3 - Scope of relief; findings. Regarding the scope of the busing remedy, § 3 of the bill provides:

(a) In ordering the transportation of students, the court shall order no more extensive relief than reasonably necessary to adjust the student composition by race, color, or national origin of

the particular schools affected by the constitutional violation to reflect what the student composition would otherwise have been had no such constitutional violation occurred.

(b) Before entering such an order, the court shall conduct a hearing, and, on the basis of such hearing, shall make specific written findings of (1) the discriminatory purpose for each constitutional violation for which transportation is ordered, and (2) the degree to which the concentration by race, color, or national origin in the student composition of particular schools affected by such constitutional violation presently varies from what it would have been in normal course had no such constitutional violation occurred.

A similar requirement, relating to all remedies for denial of equal educational opportunity, is already in effect. See 20 U.S.C. 1712 (1975 Supp.). Furthermore, the requirement of § 3(a) seems consistent with the approach set forth in the Dayton decision. There, the Court said, 45 L.W. (slip op. pp. 13-14), that:

If . . . [constitutional] violations are found, the District Court . . . must determine how much incremental segregative effect these violations had on the racial distribution of the Dayton school population, when that distribution is compared to what it would have been in the absence of such constitutional violations. The remedy must be designed to redress that difference, and only if there has been a systemwide impact may there be a systemwide remedy. Keyes, supra, at 213.

The notion that there must be a showing of the effect of discrimination on the composition of the student bodies at

particular schools may result in significant practical problems. Perhaps even more difficult is the task of showing what the racial composition of a school would have been if no discrimination in education had occurred. While these requirements obviously place heavy burdens upon Federal courts, they are at least as pervasive as those required by the Biden-Roth bill. Indeed, the approach outlined in the bill is quite similar to the requirements articulated by the Court. To be sure, both the bill and the Dayton decision leave unanswered difficult questions with respect to the placement of burdens of proof and with respect to the utilization of presumptions. Those matters were, however, discussed in some detail in the Supreme Court's Keyes decision and nothing in either the bill or the Court's more recent pronouncements would appear to conflict with or alter those principles known as the "Keyes presumptions." Generally, those "presumptions" place upon the school authorities the burden of showing that segregative acts affecting a substantial number of schools and children did not have a systemwide effect. The burden, as the Court in Keyes candidly recognized, is a substantial one and one that a school board would have difficulty meeting. Presuming the continued applicability of Keyes, it should follow that section 3 of the bill is constitutional.

Section 4 - stay pending appeal. This provision reads as follows:

Any order by a district court requiring directly or indirectly the transportation of any students on the basis of race, color, or national origin, shall be stayed until all appeals in connection with such order have been exhausted.

The terms of this section are ambiguous in certain aspects. One question is whether the stay requirement applies only to busing or to all portions of an order which deals in part with busing.

In any event, application of § 4 could raise serious constitutional questions. This may be illustrated by the following hypothetical:

In 1975, the Supreme Court affirmed a desegregation order, including busing, in a case against a school board in a state which had formerly required dual systems. After enactment of S. 1651, the defendant moved to modify the decree. The motion was denied, and the defendant appealed. Also, the defendant asserted that, under § 4 of the legislation, the busing order must be stayed pending appeal.

In our view, the court in such a case would probably hold that application of § 4, i.e., stay of the busing requirement, would be unconstitutional.

Congress has the power to make exceptions to the appellate jurisdiction of the Supreme Court and to determine the jurisdiction of the lower Federal courts. Art. III, § 1; § 2, cl. 2. However, the present bill is not jurisdictional in nature. It does not affect the jurisdiction of the Federal courts over school desegregation cases, but purports to regulate, on the basis of the Fifth and Fourteenth Amendments, the manner in which such cases are litigated. Accordingly, the main issue here is whether the stay requirement would be "appropriate" legislation "to enforce" the Equal Protection Clause.

There is dictum in Katzenbach v. Morgan that § 5 of the Fourteenth Amendment does not grant Congress power "to restrict, abrogate, or dilute . . . [the guarantees of the Equal Protection Clause]." 384 U.S. at 651, footnote 10. We need not attempt to decide whether contrary to that dictum, Congress has such power to dilute the Court's decisions. Here, it should be sufficient to draw from Morgan the conclusion that, when a Federal statute has the effect of diluting -- through postponement -- the right to desegregated education, the basis for the statute will be carefully scrutinized. Although it is conceivable that here the ultimate legislative record might be found to contain an adequate basis for the general requirement of stay, it seems more likely that, in such cases as the above hypothetical,

application of § 4 would be held invalid. Timing is a crucial aspect of the desegregation process. 4/ The courts, in such cases, might decline to defer to Congress.

There is also a separation-of-powers issue. Ordinarily, deciding whether to grant a stay pending appeal is a judicial function. In proper circumstances, Congress may legislate with regard to such matters. Cf. Yakus v. United States, 321 U.S. 414, (1944) (upholding, inter alia, the Emergency Price Control Act's prohibition against temporary stay of the operation of price regulations). Still, as is true in general, the validity of such legislation depends upon its terms, basis and effects. In some cases, notwithstanding such decisions as Alexander v. Holmes County Board of Education, 396 U.S. 19 (1969), a court may properly stay a desegregation order pending appeal. See, e.g., Corpus Christi School District v. Cisneros, 404 U.S. 1121 (Black, Circuit Justice, 1971). It must be remembered here, unlike some other situations in which stays pending appeal are regarded as appropriate, the stay of a school desegregation order may have the consequence of denying altogether the constitutional right to equal protection for some students. Where the effect of a statutory provision such as this may have an effect broader than merely postponing the availability of a constitutional right, the closest scrutiny would seem mandatory. It seems doubtful, however, that Congress would have a proper basis for mandating that result in all cases involving busing. 5/

Section 5 - orders covered by the bill. This section reads as follows:

4/ E.g., in Green v. County School Board, 391 U.S. 430, 438-39, the Court stated that delay in elimination of dual systems was "no longer tolerable" and that the school board in such a case, had the burden of adopting a plan that "promises realistically to work now."

5/ (Footnote on p. 10)

(a) This Act shall take effect with respect to any judgment or order of a court of the United States which is made after the date of enactment or which is made prior to such date but is not final or has not been effected by such date.

(b) No judgment or order of a court of the United States which is not yet final or which has not yet been effected on the day before the date of enactment of this Act shall remain in force or effect, unless the court has complied with the requirements of this Act.

This is another provision which contains unclear language. What is the meaning, for purposes of § 5, of "final order"? When is a desegregation order "effected" or "not effected"?

Even if § 5 is construed narrowly, its application could raise constitutional issues similar to those presented by the previously discussed stay provision. For example, there might be a desegregation order which, just prior to enactment of the bill, was affirmed on appeal but was not yet put into effect. Under § 5(b), that order could not be enforced until the other requirements of the bill had been met (new hearing, specific findings, etc. and perhaps even a three-judge court). This of course would mean delay pending the further proceedings in the district court, a delay which might be contrary to constitutional requirements.

5/ (Footnote from p. 9)

A current statutory provision concerning stay of desegregation orders, 20 U.S.C. 1752 (1975 Supp.), has been interpreted narrowly, i.e., as applying to cases of de facto segregation or cases where the district court misused its remedial power. See, e.g., Drummond v. Acree, 409 U.S. 1228, 1230 (Powell, Circuit Justice, 1972).

Section 5 would require relitigation of many cases. It would seem to be within the power of Congress to require such relitigation, but, for the reasons outlined above, application of the requirement that busing be postponed until completion of those proceedings might, in some cases, be unconstitutional. 6/

Conclusion

The heart of the Biden-Roth bill is aimed -- we presume -- at curtailing the frequency and extent of court-ordered student transportation. Yet so far as we are able to determine the bill accomplishes nothing that is not already mandated by the Supreme Court's recent Dayton decision. 7/ On the other

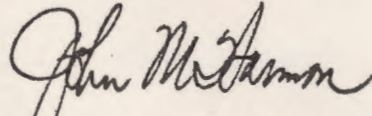
6/ In the Dayton case, the Court held that the plan in question should remain in effect for the coming school year subject to such further district court orders as additional evidence might warrant.

7/ Because of Senator Biden's sponsorship of this bill, and because it is his conversation with the President that prompted the inquiry to you, it might be helpful to review at least in brief outline, what the status is of the Wilmington, Delaware school case. After the decision of the Supreme Court in the Detroit case, Milliken v. Bradley, 418 U.S. 717 (1974), the three-judge district court in the Wilmington case found significant inter-district violations, i.e., violations affecting the Wilmington schools and those in surrounding school districts in New Castle County. Evans v. Buchanan, 393 F. Supp. 430 (D. Del., 1975). In November 1975, this decision was summarily affirmed by the Supreme Court. Buchanan v. Evans, 423 U.S. 963.

After conducting hearings concerning possible remedies, the district court issued an order calling, inter alia, for reorganization of the Wilmington district and ten suburban districts and for submission of a proper remedial plan. 416 F. Supp. 328 (D. Del., 1976). This order, subject to certain modification, was affirmed by the Third Circuit on May 18, 1977. Evans v. Buchanan, Nos. 76-2103/2107 (3d Cir., May 18, 1977).

(Footnote cont'd on p. 12)

hand, at least two of the provisions are almost surely unconstitutional (the "stay" and "coverage" provisions), one provision is contrary to a growing and well-founded dissatisfaction with three-judge courts, and the remaining provisions are sufficiently ambiguous and inartfully drawn to assure further, probably unproductive, rounds of litigation. In sum, we find nothing in the bill to recommend it as a means of dealing with the problems of school desegregation.



John M. Harmon
Assistant Attorney General
Office of Legal Counsel

7/ (Footnote cont'd from p. 11)

Thus, at present, the case is pending in the district court. Unless the State legislature or State Board of Education creates new school districts complying with the courts' orders, the schools in the area in question are to be operated by a body created pursuant to the courts' orders. By July 18, 1977, the State authorities are to file with the district court a report on implementation. As of July 5, no report has been filed.

No inter-district desegregation plan has yet been put into effect. It seems clear that the nature of the plan will depend in part upon issues raised by the Dayton decision, e.g., limiting the remedy to creation of the situation which would have existed had the school discrimination not occurred. Indeed, on the question of the scope and nature of the eventual remedial plan, we can see no particular result that the bill would achieve that will not occur as a consequence of Dayton. Since Dayton came down after the bill had already been submitted, Senator Biden might well now agree that the legislation achieves nothing additional for Wilmington.

(The United States is not a party in the case, but the Department filed amicus briefs in the Supreme Court and the Third Circuit.)



United States Department of Justice

WASHINGTON, D.C. 20530

JUN 30 1977

ASSISTANT ATTORNEY GENERAL

RECEIVED
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OFFICE OF LEGAL COUNSEL

TO: John M. Harmon
Assistant Attorney General
Office of Legal Counsel

FROM: *JP* James P. Turner
Acting Assistant Attorney General
Civil Rights Division

Re: S. 1651 Roth-Biden Bill

The purpose of this memorandum is to provide you with the views of this Division on the Roth-Biden Bill. I will not directly discuss the question of the bill's constitutionality, as it is my understanding that Mr. Marblestone of your office will be discussing that point.

There is, as is shown by the testimony on the Roth-Biden bill before the Senate Judiciary subcommittee, a common belief that federal courts are requiring busing purely to achieve an artificial racial balance; that court decrees extend well beyond correcting the effects of past discrimination. Whether that perception is correct, it is widespread among parents, editorialists, and politicians. That being the case, there is some appeal to the idea of legislating to make clear the standards for establishing a violation and fashioning a remedy. The difficulty is that constitutional legislation will not stop busing, since the Constitution requires that the effects of unlawful discrimination be eradicated insofar as is practical. ^{1/} Several statutes have been enacted purporting to limit or stop busing. President Nixon proposed one which was adopted, in modified form, as the Esch Amendment, and which contains some provisions which are similar to those in the Roth-Biden bill. The American public was led to believe that this would stop busing, but courts, faced with strong evidence of purposeful racial discrimination by school officials, have continued to order busing.

^{1/} Former Solicitor General Bork's letter to Senator Roth implicitly supports this proposition.



Marblestone

If there is a need for leadership and legislation, it is to tell it like it is: it is unlawful and wrong to allow the continuation of racial segregation which results from racially discriminatory state action, and in many cases busing is the only remedy which will, as Mr. Bork puts it, "restore as closely as possible the degree of integration that would have existed in a school system in the absence of discrimination."

The bill addresses the issue of school desegregation in a very broad manner. Before indicating what the bill would do, however, a brief summary of existing legal standards, as developed by the Supreme Court in school desegregation cases and as developed by Congress, may be helpful.

A. Present Law

1. Case Law

The Court has consistently required that in order to prove the existence of unconstitutionally segregated schools, a plaintiff must prove the existence of intentionally discriminatory state action. In areas where statutorily-based dual systems existed, the statute itself proves the existence of such intent. Brown v. Board of Education, 347 U.S. 483 (1954). In districts where there was no statutorily imposed segregation of the races, the plaintiff must prove that segregation exists as a result of "intentionally segregative acts." Keyes v. School District No. 1, 413 U.S. 189, 210 (1973). Where segregation clearly traceable to discriminatory state action exists in one area of a district, similar segregation in other areas may be presumed to result from similar actions unless the board can, for those other areas, disprove the existence of discrimination. Id. at 208.

Following proof that segregation in schools is the result, at least in part, of intentionally discriminatory state actions, a court may impose an equitable remedy to eliminate "all vestiges of state-imposed segregation". Swann v. Board of Education, 402 U.S. 1, 15 (1971). The remedy must be designed to correct the proven constitutional violations. Id. at 16. In Swann, the court succinctly stated that "the nature of the violation determines the scope of the remedy," id., a position to which the Court has consistently adhered. For example, in Milliken v. Bradley, 418 U.S. 717 (1974), the Court held that an inter-district remedy could legally be ordered only following proof that discriminatory acts have caused the segregation between school districts. In discussing remedies for cases involving segregation in schools, the Court stated "the

remedy is necessarily designed, as all remedies are, to restore the victims of discriminatory conduct to the position they would have occupied in the absence of such conduct." Id. at 746.

The Court's most recent decision concerning school desegregation, Dayton Board of Education v. Brinkman, No. 76-539 (decided June 27, 1977) in which it vacated and remanded a desegregation decree because the decree went beyond remedying the effects of the intentional discrimination found by the lower courts, demonstrates continued adherence to these principles.

The power of the federal court to restructure the operation of local and state governmental entities "is not plenary. It 'may be exercised only on the basis of a constitutional violation.' ... Once a constitutional violation is found, a federal court is required to tailor 'the scope of the remedy' to fit 'the nature of the violation'..." (cites omitted).

Dayton, supra, slip op. at 13. The Dayton case also demonstrates that where lower courts order broad remedial measures involving substantial student transportation, in the absence of equally broad, proven, intentional discrimination, the judicial review process provides a method for correction of such orders.

2. Statutory Law

Congress has previously enacted statutes addressing the judicial enforcement of the Constitution in school desegregation litigation. Title IV of the Civil Rights Act of 1964, 42 U.S.C. 2000c et seq., authorized the Attorney General to institute litigation to desegregate schools. However, that legislation affected neither substantive judicial standards for findings of de jure discrimination nor standards for imposition of remedies following proof of de jure segregation. In fact, in Swann, supra, the Court held that 42 U.S.C. 2000c(b) defined desegregation to indicate that Title IV did not authorize suit in de facto cases but had no effect on existing judicial authority following proof of de jure segregation.

In 1974, Congress enacted the "Equal Educational Opportunity Act of 1974", which was intended to delineate remedial measures available following a judicial finding that a school system is unconstitutionally segregated. See 20 U.S.C. 1701-1758. Congress set out a priority of remedies

and required a court to adopt only the least disruptive method to remedy the proven violation. 20 U.S.C. 1713. Congress also sought to enact an absolute limitation on the amount of transportation required by any remedial plan, 20 U.S.C. 1714(a), consistent with its view that assignment of children to neighborhood schools is the most appropriate method of student assignment. 20 U.S.C. 1701, 1705. However, the legislation did not limit the authority of courts to adopt bussing remedies which were necessary to overcome the effects of past discrimination. See 20 U.S.C. 1703.

Congress has, on many occasions, passed legislation restricting administrative enforcement of Title VI of the Civil Rights Act of 1964, as that statute affects segregation by school districts receiving federal funds.

B. The Bill

Sen. Roth, when introducing the bill, stated that it is a "solution to the problem of court-ordered busing," 123 Cong. Rec. S9227 (daily edition, June 9, 1977), and that it will eliminate court ordered busing in cases where there is no proof of discriminatory intent. Id. Sen. Biden, a co-sponsor, indicated that the bill is designed to apply to "busing cases" recent Supreme Court decisions (Washington v. Davis, 426 U.S. 229 (1976), and Village of Arlington Heights v. Metropolitan Housing Development Corp., 45 U.S.L.W. 4073 (January 11, 1977)) which held that proof of discriminatory intent is necessary before a violation of racial equal protection rights is decreed. Id. at S9228.

The bill states that before an order requiring transportation may be entered, a court must find that discriminatory purpose was a "principal motivating factor." Although this specific requirement differs to some extent from previous case law, see pp. 5-7, infra, the bill, in requiring the presence of discriminatory intent, merely reflects existing law which, even prior to Washington v. Davis, required the proven presence of racially discriminatory intent.

The other general section of the bill (Sec. 3) attempts to establish that the relief ordered must be tied to the proven violation, and must be designed to restore the affected schools to the racial concentration which would have been achieved in the absence of constitutional violation. As we discuss below, see pp. 8-10, infra, the specific requirements of this section will cause numerous difficulties. However, the general concept is already part of present law as developed by the Supreme Court.

C. Specific Provisions

The first section of the bill would establish that no remedial order could be decreed unless a court found that racial discrimination was a "principal motivating factor" behind the state action. The addition of the term "principal" substantially alters existing law, which requires the plaintiff to prove that racially discriminatory intent motivated the state or local authorities "to any degree". Keyes, supra, 413 U.S. at 210.

In Arlington Heights, supra, the Court stated that once a plaintiff proves that official action was "motivated in part" by a racially discriminatory purpose, the burden shifts to the defendant to prove that the results of official action would have been the same regardless of the absence or presence of discriminatory intent. See 45 U.S.L.W. at 4078, n. 21. Under the Roth-Biden bill, however, this burden would be on the plaintiffs, who would have to prove not only the presence of racial intent, but also that the racial intent was a "principal" factor behind the official action. 2/ This proof would establish, or strongly suggest, that a different result would have occurred in the absence of such a principal factor.

Assuming arguendo that the term "principal" can accurately be interpreted, this bill places an unfair burden on the plaintiff. In many instances, the racial intent must be gleaned from review of many separate official actions.

2/ The bill does not specify whether the plaintiff, in order to avoid dismissal after presenting his evidence, would have to establish that race was a "principal" factor, or whether proof that race was one factor places the burden on the defendant to prove the existence of other factors. If the existence of other factors were proven, the plaintiff would then be forced to prove race was a "principal" factor. However, unless a court were to develop the concept that a racial factor, if proven, is presumed to be a "principal" factor for purposes of this bill, a concept neither explicitly nor implicitly supported by the wording of the bill, the bill would have the effect of raising the burden of proof for the plaintiff by requiring him to prove that race was a "principal" factor.

See Village of Arlington Heights, supra, 45 U.S.L.W. at 4077. In some instances, intent may have to be proven by proof of an objective pattern which appears "unexplainable on grounds other than race". Id. The Court has previously stated its view that an attempt to assign a weight to each of various factors considered by a group of public officials, and to determine that one factor was predominant, is most often a futile exercise. "It is difficult or impossible for any court to determine the 'sole' or 'dominant' motivation behind a group of legislators." Palmer v. Thompson, 403 U.S. 217, 225 (1971). See also Dayton, supra, slip op. at 8. In Wright v. Council of City of Emporia, 407 U.S. 451 (1972), the Court held that an attempt to justify state action which operated to frustrate the enforcement of a court order remedying past racial segregation could not be upheld on the basis that non-racial considerations were now "dominant". "This 'dominant purpose' test finds no precedent in our decisions." Wright, supra, 407 U.S. at 461.

As stated in n. 2, supra, it is unclear whether the plaintiff or defendant would be responsible for proving the existence of other factors which went into the decision-making process. However, ultimately the plaintiff must prove that race was a "principal" factor. The existence of the "weight" to be accorded such other factors, if such could ever be determined, are matters which are "peculiarly within the knowledge," South Carolina v. Katzenbach, 383 U.S. 301, 332 (1966), of the official bodies which acted. The plaintiff, after proving that impermissible racial intent entered into the decision-making process, should not be required to then establish a scale of motivating factors, listing them in descending order of importance. This concept would not only be exceedingly difficult to approximate, but would likely be outside a plaintiff's ability to discover. 3/

3/ Officials normally may not be forced to explain their reasons for their official actions. See Arlington Heights, supra, 45 U.S.L.W. at 4078.

Senators Roth and Biden appear to want to establish that school segregation may not be remedied unless the racial factor caused the segregation. Under Arlington Heights, if a school board can prove that the existing racial segregation in schools would have occurred regardless of any proven racial intent, a court may not order a remedy. Arlington Heights, supra, 45 U.S.L.W. at 4078, n. 21. This present standard already accomplishes what the Senators seek without introducing the difficulties of assigning weight to various partial motives behind official activity.

2. Sec. 2 of the bill would require a three-judge court for all orders requiring student transportation "directly or indirectly". Were this adopted, the necessity of a three-judge court would therefore depend on the remedy the court decides to order. The Supreme Court has recently held, in a case arising under former 28 U.S.C. 2281, that to postpone the "threshold question of jurisdiction until the merits of the controversy had been fully resolved and the broad outlines of equitable relief discerned" is a "wasteful and uncertain mandate." Costello v. Wainwright, No. 76-5920, March 21, 1977, slip op. at 2.

The language of sec. 2 would also substantially confuse the appeal provisions of school desegregation cases. The Court has held that direct appeal to the Supreme Court, pursuant to 28 U.S.C. 1253, from three-judge court cases convened to hear constitutional issues exists only if the decision below reached the merits of the constitutional issue. MTM, Inc. v. Baxley, 420 U.S. 799 (1975). However, in the Roth-Biden bill the necessity for the convening of a three-judge court depends on the remedy. Therefore, decisions ordering a particular remedy requiring transportation would be appealable directly to the Supreme Court. But, if a court were to reach the remedy stage and order a remedy not requiring transportation, it is difficult to see where the appeal would lie; the order may have reached the issue-remedy--on which three-judge jurisdiction is based, but did not actually order the type of relief required for the convening of a three-judge court.

The procedural difficulties and uncertainties inherent in three-judge courts were recognized by Congress when it voted recently to repeal 28 U.S.C. 2281 and 2282, (Pub. L. 94-381, passed August 12, 1976), which statutes required three-judge courts in cases challenging the constitutionality of State or Federal statutes. See S. Rep 94-204, 94th Cong.,

1st Sess. at 5-7, and H. Rep. 94-1379, 94th Cong., 2nd Sess. at 4. The Department of Justice had supported the repeal of those provisions for some time, not only because three-judge court statutes resulted in extensive procedural litigation, but also because they wasted valuable judicial resources and proved to have outlined their original purpose. See S. Rep. 94-204 at p. 2, 7-8.

In addition, the provision requiring direct appeal to the Supreme Court from three-judge courts eliminates the consideration of the merits of the case by a court of appeals. In school desegregation cases the consideration of important issues by the courts of appeals, both in panel and en banc decisions, have been a major factor in the development of case law, particularly as regards the proper implementation and drafting of remedies. The elimination of that review level, given the caseload of the Supreme Court, would most likely prevent these cases from receiving the plenary scrutiny they require.

3. Sec. 3 of the bill attempts to tie the remedy directly to the violation. In sec. 3(a), the bill states that the remedy should be no more extensive than is "reasonably necessary" to reflect the student composition which would have been achieved absent the constitutional violation. As indicated on p. 3, supra, the Supreme Court has already established that the remedy should achieve that status which would have been established in the absence of a constitutional violation. The recent Dayton decision stated quite specifically that, following proof of intentional discrimination, the court must determine the "incremental segregative effect" of the violations on the racial distribution of the district by comparing the present racial distribution of the school population with what would have been the racial distribution in the "absence of such Constitutional violations. The remedy must be designed to redress that difference." Slip op. at 84. Congress, in addition, has already established, through legislation enacted in 1974, that the remedy in a school desegregation case should be no more than is "essential to correct particular denials" of constitutional rights. Sec. 213 of Pub. L. 93-380, 20 U.S.C. 1712.

The bill, in sec 3(b), would require the court to find the discriminatory purpose for "each constitutional violation for which transportation is ordered." This language suggests that a court must make a school-by-school determination of segregative intent before ordering a remedy affecting those

schools. Present standards establish that, in order to justify remedial action, the court must find official acts to have been the "substantial cause" of resulting segregation. Milliken, supra, 418 U.S. at 745. In addition, the Court has recognized the common-sense concept that discriminatory actions directed at one school "have an impact beyond the particular schools that are the subjects of those actions." Keyes, supra, 413 U.S. at 203. Sen. Roth's requirement that each transportation order be tied to proof of a discriminatory purpose for "each constitutional violation" appears to require separate violations directed at each school. Such specific violations may not exist, despite the fact that resulting segregation may be clearly caused by acts directed at other schools, or even general policies (i.e., statutory segregation), for which discriminatory intent is not specifically localized.

Under present standards, school authorities are bound to take steps "affirmatively" to desegregate. Green v. County School Board, 391 U.S. 430, 437 (1968). Actions subsequently taken which "neutrally" perpetuate or exacerbate the previously existing dual system may justify remedial judicial action directed at those actions. See Swann, supra, 402 U.S. at 21, 28. The Roth-Biden bill, however, suggests that before a court may seek to remedy actions which fail affirmatively to desegregate, the court must find a new "discriminatory purpose". Such a requirement may permit school boards effectively to perpetuate, through facially non-discriminatory actions, segregated conditions initially caused by state action. Washington v. Davis did not intend to require new proof of discriminatory purpose when a court seeks to remedy actions which serve to frustrate a court's order to desegregate. See discussion in Washington of Wright v. Council of City of Emporia, supra, 407 U.S. 451 (1972), at 426 U.S. at 243. Similarly, a plaintiff should not be forced to prove segregative intent to seek to remedy actions which violate the board's duty affirmatively to desegregate.

Part (b) of section 3 requires a court, before ordering a remedy, to find the degree to which the present racial concentration in each school for which a remedy is proposed differs from that which would have been established had no constitutional violation occurred. If this section is intended to preclude the entry of a remedial order unless a specific figure can be accurately determined, we believe

such a requirement is unnecessarily strict. Given the fact that the racially discriminatory action regarding schools, in many cases, has been applied consistently over decades, such a requirement would require a degree of clairvoyance, and an ability to reconstruct the past, which would be virtually impossible to attain. See Morgan v. Kerrigan, 523 F.2d 917, 922 (2nd Cir. 1975). Such a requirement is further complicated by the fact that decisions regarding schools affect other decisions of everyday life, such as choices and location of housing. See Swann, supra, 402 U.S. at 20-21. See also Dayton, supra, slip op. at 8.

The Roth-Biden bill goes beyond that proposed by the Ford Administration last term. See S. 3618, 94th Cong., 2nd Sess. The Ford bill did not propose that remedies be independently justified on a school-by-school basis; if such an examination were not feasible, a remedy should restore the "overall pattern" of student attendance to that which would have been achieved had no discrimination occurred. See also Dayton, supra, slip op. at 14. The Roth-Biden requirement that such a specific reconstruction of history be made is unnecessary; a court, under existing legal requirements, already must determine that official policies were a "substantial cause" of existing segregation before it can order a remedy, and the remedy must restore the district as nearly as possible to the attendance patterns which would have been achieved absent the proven violation.

4. Sec. 4 would establish that all orders requiring transportation be stayed until all appeals are exhausted. This would substantially delay the implementation of school desegregation, contrary to previously established judicial principles that school desegregation orders should promptly be enforced. Alexander v. Holmes County, 396 U.S. 19 (1969).

This bill goes beyond previous Congressional language which sought to delay enforcement of school desegregation orders pending appeals. Previous legislation stayed the enforcement of remedial decrees ordered to achieve a "racial balance," 20 U.S.C. 1752, which did not affect orders remedying de jure segregation. See Drummond v. Acree, 409 U.S. 1221 (Powell, Circuit Justice). There is no indication why the present provisions of the federal rules (F.R. Civ. P. Rule 62, F.R.A.P., Rule 8) regarding stays are unsatisfactory for school cases.

5. Sec. 5 would apply the act to all orders made prior to the date of enactment but not yet "final" or not yet "effected." In light of sec. 4, it is unclear whether the drafters mean final for purposes of appeal, or final after exhaustion of all appeals.

The term "effected" is not explained or defined. It suggests, however, that cases in which desegregation plans have been ordered but have not yet been implemented could be reopened. This would permit the relitigation of the violation stage under the standards imposed by this bill (i.e., race as a "principal" factor). The Wilmington case, being presently in the status described above, may be the basis for this provision.

This could cause extensive relitigation. In addition, the vagueness of the term "effected" suggests that it could result in the reopening of cases in which the implementation of plans has been started but is not yet complete, resulting in even more relitigation of issues long decided. We should support no effort by Congress to attempt to alter the results of past litigation by the inclusion of terms like "effected" which would suggest a method of applying newly enacted legislation to past litigation.

D. Conclusion - Senators Roth and Biden stated that the bill merely reflects existing law. As demonstrated above, the bill makes some changes in present law regarding both proof of a case and determination of a remedy which unnecessarily restrict and complicate present legal standards in this area.

If any further legislation is needed (and that question is subject to debate) what is needed in this difficult area is a careful, sensitive approach and a bill which can provide real help and guidance to school boards and courts. This bill fails by those standards.

THE WHITE HOUSE
WASHINGTON

July 20, 1977

Frank Moore

The attached was returned in
the President's outbox. It is
forwarded to you for your
information.

Rick Hutcheson

RE: CONGRESSMAN DAVIS

THE WHITE HOUSE
WASHINGTON

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|-------------------------------------|---------------------------|
| <input type="checkbox"/> | FOR STAFFING |
| <input type="checkbox"/> | FOR INFORMATION |
| <input checked="" type="checkbox"/> | FROM PRESIDENT'S OUTBOX |
| <input type="checkbox"/> | LOG IN/TO PRESIDENT TODAY |
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ACTION
FYI

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| <input type="checkbox"/> | MONDALE |
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| <input checked="" type="checkbox"/> | MOORE |
| <input type="checkbox"/> | POWELL |
| <input type="checkbox"/> | WATSON |
| <input type="checkbox"/> | LANCE |
| <input type="checkbox"/> | SCHULTZE |

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| <input type="checkbox"/> | ENROLLED BILL |
| <input type="checkbox"/> | AGENCY REPORT |
| <input type="checkbox"/> | CAB DECISION |
| <input type="checkbox"/> | EXECUTIVE ORDER |
| | Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day |

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| <input type="checkbox"/> | ARAGON |
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| <input type="checkbox"/> | STRAUSS |
| <input type="checkbox"/> | VOORDE |
| <input type="checkbox"/> | WARREN |

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

July 19, 1977

*Susan - Get
him on phone*

*one regis / county
Post card option
Mendel lh*

gave info to VP

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK MOORE *FM*

Congressman Mendel Davis (D-South Carolina) telephoned you yesterday while several of us were in your office right before the senior staff meeting. You asked Bill Cable to take the call for you which he did.

Congressman Davis has called you again today and is upset that he has been unable to reach you directly as you promised at Blair House.

He is not planning to make the trip to South Carolina because of his disagreement with us on voter registration. I recommend that you return his call and in the course of the conversation ask him to accompany you to South Carolina.

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

July 20, 1977

Z. Brzezinski
Frank Moore
Hamilton Jordan
Jim Fallows

For your information the attached
proclamation was signed this
morning and forwarded to Bob
Linder for appropriate handling.

Rick Hutcheson

Re: Captive Nations Week

CAPTIVE NATIONS WEEK, 1977

- - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

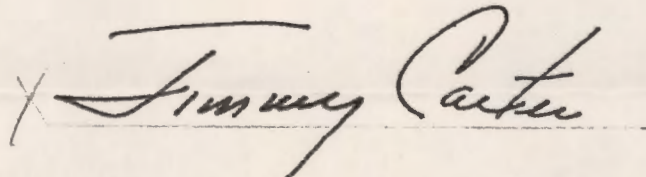
Since 1959 the Congress, by joint resolution (73 Stat. 212), has authorized and requested the President to designate the third week in July as Captive Nations Week.

Our own country was established on a profound belief in national self-determination. Throughout our history we have sought to give meaning to this principle and to our belief in liberty and human rights.

In recognition of this commitment, NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning July 17, 1977, as Captive Nations Week.

I call upon the people of the United States to observe this week with appropriate ceremonies and activities, demonstrating America's support for those who seek national independence, liberty, and human rights.

IN WITNESS WHEREOF, I have hereunto set my hand this
day of July, in the year of our Lord
nineteen hundred seventy-seven, and of the Independence
of the United States of America the two hundred and

A handwritten signature in dark ink, reading "Jimmy Carter". The signature is written in a cursive style with a large, sweeping "J" and "C". There is a small "X" mark to the left of the signature.

THE WHITE HOUSE
WASHINGTON

July 5, 1977

Z. Brzezinski
Jim Fallows

The attached proclamation was
returned in the President's outbox
unsigned and is forwarded to you
for your information and appropriate
action.

Rick Hutcheson

Re: Captive Nations Week

cc: Bob Linder

THE WHITE HOUSE
WASHINGTON

| ACTION | FYI |
|--------|-----------|
| | MONDALE |
| | COSTANZA |
| | EIZENSTAT |
| | JORDAN |
| | LIPSHUTZ |
| | MOORE |
| | POWELL |
| | WATSON |

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| | ENROLLED BILL |
| | AGENCY REPORT |
| | CAB DECISION |
| | EXECUTIVE ORDER |
| | Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day |

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| | FOR STAFFING |
| | FOR INFORMATION |
| <input checked="" type="checkbox"/> | FROM PRESIDENT'S OUTBOX |
| | LOG IN/TO PRESIDENT TODAY |
| | IMMEDIATE TURNAROUND |

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| | ARAGON |
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| | SCHNEIDERS |
| | SCHULTZE |
| | SIEGEL |
| | SMITH |
| | STRAUSS |
| | WELLS |
| | VOORDE |

THE WHITE HOUSE
WASHINGTON

Mr. President:

Fallows and Brzezinski concur
with the attached proclamation.

A joint congressional resolution
of 1959 requested that
the President proclaim the
third week of July "Captive
Nations Week" until freedom
is achieved for all the
captive nations.

Rick

*This is
silly -
J*

Electrostatic Copy Made
for Preservation Purposes

CAPTIVE NATIONS WEEK, 1977

- - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

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X _____